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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,176

04/07/2006

Helmut Jerg

2003P01283WOUS

6722

46726

7590

08/27/2009

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

HECKERT, JASON MARK

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

08/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,176	Applicant(s) JERG ET AL.	
	Examiner JASON HECKERT	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-15 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-15, 17-23, 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claim 24 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 24 represents a distinct embodiment as explained in the applicant's specification and figures.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 24 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

2. Applicant's arguments filed 6/2/09 have been fully considered but they are not persuasive. Applicant's claim 12 states that the sides of the spray channel "lies substantially" in one plane. The term "substantially" is considered to provide flexibility to the claim, thus broadening it to mean that the sides need not be in exactly one plane. Furthermore, the indentations in the bottom of the tub of Pacella can still be considered to be "the bottom" of the tub. Therefore, due to flexibility of the applicant's claim language and the reasonable broadest interpretation of the prior art, Pacella is still found to anticipate the applicant's language as claimed.

3. In regards to new claims 23 and 25, examiner presents new art of Gelles (UK 1138291). Gelles shows spray channels within a dishwasher, wherein the spray channels can be in the same plane or in different planes. The spray channels can be

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parallel or perpendicular. Thus, the channel arrangements claimed in the instant application are not novel.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 12-15, 18, 20-21, 24 rejected under 35 U.S.C. 102(b) as being anticipated by Pacella et al (Pacella). Pacella discloses a dishwasher comprising a bottom, top, and walls that collectively form an interior of the washing machine. Figure 7 shows a spraying device comprising a channel 148 to guide washing liquid that is tubular and has two open ends. The cross-section is rectangular. The channel cover is fixably mounted. The channel is integrated into at least the bottom of the interior 126. Openings 152 function as nozzles to spray fluid into the interior. The device includes a pump 140, which reads on mechanical means to control pressure. The device is believed to be capable of operating at various pressures, a feature which is regarded as intended use of the apparatus. The cross sections of 148 are rectangular with rounded edges. Removable plate 150 lies within the plane of the bottom, and can be considered a part of the bottom. The cover plate is fixed by means such as screws.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Pacella in view of Wright. Pacella discloses interchangeable covers, but not teach an interchangeable channel. Wright discloses that spray manifolds and conduits 204 can be easily made to be removable and interchangeable (figure 9 and 12). Thus, without pointing to a specific structure or novel feature, the applicant's claims are believed to be obviated by Pacella and Wright. It would have been obvious at the time of the invention to include multiple removable channels, as disclosed by Wright, so that they can easily be cleaned and relocated.

8. Claims 23 and 25 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Pacella in view of Gelles. Pacella does not teach multiple channels that are located in a non-parallel manner, nor does Pacella teach channels lying in different planes. Gelles teaches that spray channels can lie parallel or non-parallel, and within the same plane or in different planes (see figure). Some of the channels are parallel and within the same plane, others are perpendicular and within the same plane. Additionally, some channels are perpendicular and in different planes. Thus, the conformation claimed in the instant application is not found to be patentable, as the arrangement was clearly known in the prior art and would have been obvious to one of ordinary skill at the time of invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON HECKERT whose telephone number is (571)272-2702. The examiner can normally be reached on Mon. to Friday, 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art
Unit 1792

JMH